



COUNTY OF LOS ANGELES
DEPARTMENT OF PARKS AND RECREATION

"Parks Make Life Better!"

Russ Guiney, Director

John Wicker, Chief Deputy Director

Executive Offices • 433 South Vermont Avenue • Los Angeles, CA 90020-1975 • (213) 738-2961

June 17, 2014

The Honorable Board of Supervisors
County of Los Angeles
383 Kenneth Hahn Hall of Administration
500 West Temple Street
Los Angeles, California 90012

Dear Supervisors:

ADOPTED

BOARD OF SUPERVISORS
COUNTY OF LOS ANGELES

39 June 17, 2014

Sachi A. Hamai
SACHI A. HAMAI
EXECUTIVE OFFICER

**APPROVE A PRIVATE GRADE SEPARATED CROSSING AGREEMENT BETWEEN THE METRO
GOLD LINE FOOTHILL EXTENSION CONSTRUCTION AUTHORITY AND THE COUNTY OF LOS
ANGELES
(SUPERVISORIAL DISTRICT 5) (3 VOTES)**

SUBJECT

The purpose of the recommended action is to approve a Private Grade Separated Crossing Agreement between the Metro Gold Line Foothill Extension Construction Authority and the County of Los Angeles for the County's right to use, operate, maintain, repair, and replace County's existing equestrian trail under a private rail road grade-separated crossing and overpass along Santa Anita Wash within the Assessor Parcel Number 8507-010-902 in the City of Arcadia.

IT IS RECOMMENDED THAT THE BOARD:

1. Find the proposed Private Grade Separated Crossing Agreement categorically exempt from the California Environmental Quality Act for the reasons stated herein and the reasons reflected in the record of the agreement.
2. Find that the proposed Private Grade-Separated Crossing Agreement between the Metro Gold Line Foothill Extension Construction Authority and the County of Los Angeles is needed to formalize County's right to use, operate, maintain, repair, and replace County's existing equestrian trail under the Authority's private railroad grade-separated crossing.
3. Approve and instruct the Chairman to sign the proposed Private Grade Separated Crossing Agreement.

PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION

The Metro Gold Line Foothill Extension Construction Authority (Authority), in its individual capacity, and not as Trustee, is in the process of constructing the Los Angeles-Pasadena Foothill Extension Gold Line Light Rail Project (Project). The Authority holds right-of-way (Project ROW) across a portion of Santa Anita Wash in trust for benefit of Los Angeles County Metropolitan Transportation Authority (LACMTA). As part of the Project, the Authority will rebuild the existing railroad overpass (Overpass) along the Project ROW across Santa Anita Wash.

LACMTA will have sole responsibility for the operation and maintenance of the Gold Line Light Rail upon completion of construction, testing, and final acceptance of the Project. Ownership of the property relating to the Project, including, without limitation, the Project ROW (including the Overpass), will be conveyed by the Authority to LACMTA on or around the Project's revenue operation date.

The Los Angeles County Flood Control District (District) owns three easements (District Easements) for flood control purposes that cross Santa Anita wash across the Project ROW. The District and County of Los Angeles (County) entered into an agreement on February 28, 1967 (Use Agreement), whereby the District agreed to cooperate with the County's Department of Parks and Recreation (Department) in the development of recreational facilities on properties owned by the District.

Pursuant to the Use Agreement, the Department created an equestrian trail (Trail) along Santa Anita Wash within the District Easements and under the Authority's Overpass within the Project ROW. As the District Easements do not include the right to construct, maintain, or operate the Trail under the Overpass, the Authority and the County need to document the County's right to cross the Project ROW under the Overpass. The portion of the Project ROW located under the Overpass is referred herein as the "Crossing." The Crossing does not include any portion of the Overpass, including the supporting structure and foundation, or any portion of the rail line to be constructed on or about the Overpass.

The purpose of the recommended action is to approve a Private Grade Separated Crossing Agreement (Agreement) between the Authority and the County for the County's right to use, operate, maintain, repair, and replace County's existing Trail.

Implementation of Strategic Plan Goals

The recommended action will further the County's Strategic Plan Goals of Operational Effectiveness (Goal 1) and Integrated Services Delivery (Goal 3) by ensuring quality recreational infrastructure, thereby enriching the lives of County residents, and ensuring the public safety and security of the people of Los Angeles County.

FISCAL IMPACT/FINANCING

There will be no impact to the County General Fund, as the Authority will be using their own funds for any constructions or operations.

There will be no monetary consideration paid for this Agreement.

OPERATING BUDGET IMPACT

Based on the recommended actions, the Department does not anticipate any additional operating

costs. The provisions and terms resulting from the Agreement have operating and maintenance requirements that will be fulfilled with existing Department staff and resources.

FACTS AND PROVISIONS/LEGAL REQUIREMENTS

The Authority and the County need to document County's right to cross the Project ROW under the Overpass, and the County is authorized to do so pursuant to Government Code Section 25212.

The Agreement has been reviewed and approved by County Counsel as to form.

ENVIRONMENTAL DOCUMENTATION

The proposed Agreement is categorically exempt from the California Environmental Quality Act (CEQA) according to Section 15301 of the State CEQA Guidelines and Class 1 (r) of the County's Environmental Document Reporting Procedures and Guidelines, Appendix G, because the Agreement involves maintenance, operation, and leasing of an existing facility.

IMPACT ON CURRENT SERVICES (OR PROJECTS)

These actions allow for the use and enjoyment of the District's rights of way by the public for recreational purposes with full acknowledgement and approval by the Authority.

CONCLUSION

It is requested that two adopted copies of this letter be forwarded to the Department of Parks and Recreation.

Should you have any questions, please contact Natasha Robinson at (213) 351-1980 or nrobinson@parks.lacounty.gov, James Barber at (213) 351-5117 or jbarber@parks.lacounty.gov, Kasey Dizon at (213) 738-2986 or kdizon@parks.lacounty.gov, or Kaye Michelson at (213) 738-2955 or kmichelson@parks.lacounty.gov.

The Honorable Board of Supervisors

6/17/2014

Page 4

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "Russ Guiney", with a stylized, flowing script.

RUSS GUINEY

Director

RG:NEG:KK:JB:N

R:ner

Enclosures

c: Chief Executive Office
County Counsel
Executive Office, Board of Supervisors
Parks and Recreations

PRIVATE GRADE SEPARATED CROSSING AGREEMENT

THIS PRIVATE GRADE SEPARATED CROSSING AGREEMENT ("**Agreement**"), is made this 17th day of June, 2014, by and between the **METRO GOLD LINE FOOTHILL EXTENSION CONSTRUCTION AUTHORITY**, a public entity of the State of California, **TRUSTEE OF THE LOS ANGELES – PASADENA METRO BLUE LINE GOVERNMENTAL PURPOSE PROPERTY TRUST** ("**Authority**"), **LOS ANGELES COUNTY METROPOLITAN TRANSPORTATION AUTHORITY** ("**LACMTA**"), a public entity of the State of California (together with Authority sometimes referred to herein as "**Grantor**"), and **LOS ANGELES COUNTY**, a political subdivision of the State of California ("**County**"), upon and in consideration of the agreements, covenant, terms, and conditions below:

RECITALS

- A. The Authority (in its individual capacity, and not as Trustee), is constructing the Los Angeles-Pasadena Foothill Extension Gold Line Light Rail project ("**Project**"). The Authority holds right-of-way (the "**Project ROW**") across a portion of Santa Anita Wash in trust for benefit of LACMTA, pursuant to that certain LOS ANGELES – PASADENA METRO BLUE LINE GOVERNMENTAL PURPOSE PROPERTY TRUST dated August 19, 1999. As part of the Project, the Authority will cause the rebuilding of the existing railroad overpass ("**Overpass**") along the Project ROW, across Santa Anita Wash. The Project ROW (including the Overpass), and related portion of Santa Anita Wash are depicted on Exhibit A, attached hereto and incorporated herein by this reference.
- B. LACMTA has the sole responsibility for the operation and maintenance of the Gold Line upon completion of construction, testing and final acceptance of the Project. Ownership of the property relating to the Project, including, without limitation, the Project ROW (including the Overpass), will be conveyed by the Authority to LACMTA on or around the Project's revenue operation date ("**ROD**").
- C. The Los Angeles County Flood Control District ("**District**") owns three easements (the "**District Easements**") for flood control purposes that cross Santa Anita Wash across the Project ROW. The instruments granting the District Easements are listed on Exhibit B, attached hereto and incorporated herein by this reference.
- D. District and County entered into that certain Agreement dated February 28, 1967 (the "**Use Agreement**"), whereby District agreed to cooperate with County's Parks and Recreation Department in the development of recreational facilities on properties owned by District.
- E. Pursuant to the Use Agreement, County's Parks and Recreation Department has created an equestrian trail ("**Trail**") along Santa Anita Wash, including under the Overpass across the Project ROW along the District Easements, and allows the public to cross the Project ROW along the **Trail**. The **Trail** is depicted on Exhibit A.

- F. As the District Easements do not include the right to construct, maintain or operate the Trail under the Overpass, the parties wish to document the right of the County to cross the Project ROW under the Overpass for such purpose. The portion of the Project ROW located under the Overpass is referred to herein as the "**Crossing**". The Crossing does not include any portion of the Overpass, including the supporting structure and foundation, or any portion of the rail line to be constructed on or about the Overpass.

AGREEMENT

NOW THEREFORE, for good and valuable consideration, receipt of which is hereby acknowledged, it is agreed by the parties as follows:

1. LACMTA hereby grants to County, for use by County's Parks and Recreation Department and its employees, agents, contractors, licensees, visitors, and invitees (collectively, "**County's Permittees**") the right to use the Crossing described in Recital F of this Agreement, on the terms and conditions set forth herein. The Crossing is a private rail road grade-separated crossing, and shall be for flood control use and the installation, use, operation, maintenance, repair and replacement of an equestrian trail and not for any other use. The Crossing does not include any portion of the Overpass, or any portion of the rail line to be constructed on or about the Overpass.
2. Other than the inclusion of the Trail, it is not the intent of LACMTA or Authority to grant to County any rights greater than those held by District pursuant to the District Easements.
3. County and County's Permittees shall use the Crossing in compliance with the terms of this Agreement. County and County's Permittees shall comply with all posted signs and warning and safety devices and shall not circumvent any safety devices.
4. County shall not obstruct or interfere with the passage of light rail trains operating on the railroad track above the Crossing and shall use its best efforts to ensure that all County's Permittees do the same.
5. County shall be responsible for using, operating, maintaining and repairing the Trail in a good, clean and safe condition and in a manner consistent with other Trails operated by County. If any portions of the Trail are in need of replacement, County shall be responsible for replacing such portions of the Trail.
6. LACMTA and Authority reserve the right to modify the Overpass as necessary upon not less than twenty (20) days prior written notice to County; provided however in the event of an emergency or situation which affects public health and safety and requires immediate attention, Grantor may modify the Overpass

and in such situation, will provide County with as much notice as is feasible under the circumstances. Grantor also reserves the right to construct, reconstruct, maintain and use existing and future transportation, communication and pipeline facilities in, upon, over, under, across and along the Overpass, providing they do not unreasonably restrict County's use of the Crossing.

7. LACMTA shall provide County a thirty (30) day written notice of any modification of its rules and regulations, and any other requirements relating to the use of the Crossing. County and County's Permittees shall comply with LACMTA posted rules and regulations relating to use of the Crossing.
8. County shall not be permitted, under any circumstances, to alter, reconstruct or remove any portion of the Crossing or any appurtenances thereof once they are installed.
9. Indemnity. County, on behalf of itself and its successors and assigns, shall indemnify, defend (by counsel satisfactory to Grantor), and hold harmless Authority, LACMTA, and their respective officers, employees, agents, successors and assigns (individually and collectively, "Grantor Indemnitees"), from and against all loss, liability, claims, demands, suits, liens, claims of lien, damages (including consequential damages), costs and expenses (including, without limitation, any fines, penalties, judgments, litigation expenses, and experts' and attorneys' fees), that are incurred by or asserted against Grantor Indemnitees arising out of or connected in any manner with the (i) negligence or willful misconduct of County or County's Permittee's in on or above the Crossing; (ii) the entry and use of the Crossing by County or County's Permittees, including, without limitation, the Trail (commencing with the date the Trail was first used by County or County's Permittees); or (iii) non-performance or breach by County or County's Permittees of any term or condition of this Agreement. The indemnities provided by County in favor of Grantor and Grantor Indemnitees in this Agreement shall not require payment as a condition precedent and shall survive the termination, expiration or revocation of this Agreement.

Claims against the Grantor Indemnitees by County's Permittees shall not limit the County's indemnification obligations hereunder in any way, whether or not such claims against Grantor Indemnitees may result in any limitation on the amount or type of damages, compensation, or benefits payable by or for any County's Permittees under workers' compensation acts, disability benefit acts or other employee benefit acts or insurance.

10. Assumption of Risk and Waiver. County acknowledges that the Crossing crosses under an operating light rail line that will be part of the LACMTA Metro Rail system. The light rail line includes rail lines, tracks, appurtenances, dedicated roadway, trains or other vehicles utilized by the Authority and LACMTA and County and County's Permittees may be subjected to disturbance,

inconvenience, annoyance and nuisance associated with or related to a) construction, operation, use, repair, maintenance, replacement or reconstruction activities on or from the Project, (b) the operation of rail service on and over the Crossing, and (c) the activities of the Authority and LACMTA patrons, employees, contractors, consultants, or agents associated therewith (collectively, the **"Transit Proximity Risks"**). Transit Proximity Risks include: (i) vehicle exhaust, (ii) noise, vibration and odor, and (iii) lighting from the Project. Notwithstanding the foregoing, the Transit Proximity Risks do not include bodily injury or property damage directly caused by the gross negligence or intentional misconduct of the Authority, LACMTA, and their respective subsidiaries, employees, contractors or agents in the course of operation, use, construction, repair, maintenance, reconstruction or replacement work related to the Project.. County assumes any and all risk of loss, damage or injury of any kind to any person or property when using the Crossing, to the extent that such loss, damage or injury is a result of the Transit Proximity Risks. County, on behalf of itself and the County's Permittees as a material part of the consideration for this Easement, hereby waives all claims and demands against Grantor for any such loss, damage or injury of County's Permittees as a result of the Transit Proximity Risks. In that connection, County waives the benefit of California Civil Code section 1542, which provides as follows:

A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing the release, which if known by him or her must have materially affected his or her settlement with the debtor.

The provisions of this paragraph shall survive the termination of this Agreement.

11. In the event of an emergency resulting from County's or County's Permittees' use of the Crossing that threatens or endangers (a) human life or safety or (b) operation of the LACMTA facilities, or any other improvement or appurtenance of LACMTA, County shall promptly notify LACMTA's Rail Operation Control Center at 323-563-5290 or 323-563-5022 and LACMTA's contact person set forth in this Agreement. Thereafter, County may undertake such measures as are reasonably necessary to remedy such emergency provided that County (w) acts in good faith; (x) uses its best efforts to remedy the emergency immediately; (y) otherwise conforms to the extent practicable, to the applicable provision of this grant of Easement; and (z) follows all directives issued by the Rail Operation Control Center and/or LACMTA's Contact Person with respect to such emergency work. LACMTA reserves the right to change the telephone numbers listed above by delivering written notice thereof to County. Such notice shall be delivered by certified mail postage prepaid, and addressed as specified in Section 12 of this Agreement.

12. All notices and demands which any party is required to or desired to give to the other shall be made in writing by personal delivery, by express courier service by certified mail postage prepaid, and addressed to each party at its address set forth below. Any party may change its address for the receipt of notice by giving written notice thereof to the other party in the manner herein provided. Notices shall be effective only upon receipt by the party to whom notice or demand is given.

COUNTY:

Los Angeles County Department of Parks and Recreation
510 S. Vermont Avenue, Room 201
Los Angeles, CA 90020
Attn: Kathline J. King, Chief of Planning

Authority:

Metro Gold Line Foothill Extension Construction Authority
406 East Huntington Drive, Suite 202
Monrovia, CA 91016
Attn: Habib F. Balian
Chief Executive Officer

LACMTA:

Los Angeles County Metropolitan Transportation Authority
One Gateway Plaza 99-18-4
Los Angeles, CA 90012-2932
Attn: Velma Marshall, Deputy Executive Officer, Real Estate

with a copy to:

Los Angeles County Metropolitan Transportation Authority
One Gateway Plaza 99-25-2
Los Angeles, CA 90012-2932
Attn: Chief Operations Officer


13. If any term, covenant, condition or provision of this Agreement, or the application thereof to any person or circumstance, shall to any extent be held by court or competent jurisdiction to be invalid, void or unenforceable, the remainder of the terms, covenants, conditions, or provision of this Agreement, or the application thereof to any person or circumstance, shall remain in full force and effect and shall in no way be affected, impaired or invalidated thereby.

14. The Agreement may be amended at any time by the written agreement of Grantor and County. All amendments, changes, revisions, and discharges of this Agreement in whole or in part, shall be binding upon the parties despite any lack of legal consideration, so long as it shall be in writing and executed by the parties hereto.
15. County shall not assign or transfer (whether voluntarily or involuntarily) this Agreement in whole or in part to permit any other person or entity to use the rights or privileges hereby conveyed without the Grantor's consent.
16. This Agreement and the Exhibits hereto constitute the entire agreement between the parties with respect to the subject matter hereof. All amendments hereto shall be in writing.
17. Successors and Assigns. The provisions of this Agreement are expressly binding upon, and shall inure to the benefit of, the parties hereto and their successors in interest and assigns.
18. This Agreement shall be governed by the laws of the State of California.
19. In the event of any breach of this Agreement by County, this Agreement may be terminated by LACMTA upon thirty (30) days written notice.

IN WITNESS THEREOF, the parties have caused this Agreement to be executed by their duly authorized representatives as of the date first written above.


"LACMTA"

LOS ANGELES COUNTY METROPOLITAN TRANSPORTATION AUTHORITY

By: 
Name: Velma C. Marshall
Title: Deputy Executive Office - RE

APPROVED AS TO FORM

JOHN F. KRATTLI
County Counsel

By: 
Deputy


"Authority"

METRO GOLD LINE FOOTHILL EXTENSION CONSTRUCTION AUTHORITY, a public entity of the State of California, TRUSTEE OF THE LOS ANGELES – PASADENA METRO BLUE LINE GOVERNMENTAL PURPOSE PROPERTY TRUST

By: 
Name: Habib Balian
Title: Chief Executive Officer

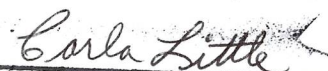
APPROVED AS TO FORM

RICHARDS, WATSON & GERSHON

By: 
Michael Estrada
General Counsel

I hereby certify that pursuant to
Section 25103 of the Government Code,
delivery of this document has been made.

SACHI A. HAMAI
Executive Officer
Clerk of the Board of Supervisors

By: 
Deputy

"COUNTY"

County of Los Angeles

By: 
Don Knabe, Chairman, Board of Supervisors

Attest:
(SACHI A. HAMAI)
Executive Officer-Clerk of The Board of Supervisors

By: 
Deputy

APPROVED AS TO FORM
BY COUNTY COUNSEL
JOHN KRATTLI

By: 
Claudia Gutierrez, Deputy



ADOPTED
BOARD OF SUPERVISORS
COUNTY OF LOS ANGELES

39 JUN 17 2014


SACHI A. HAMAI
EXECUTIVE OFFICER

EXHIBIT A DEPICTION OF PROJECT ROW, SANTA ANITA OVERPASS, AND TRAIL

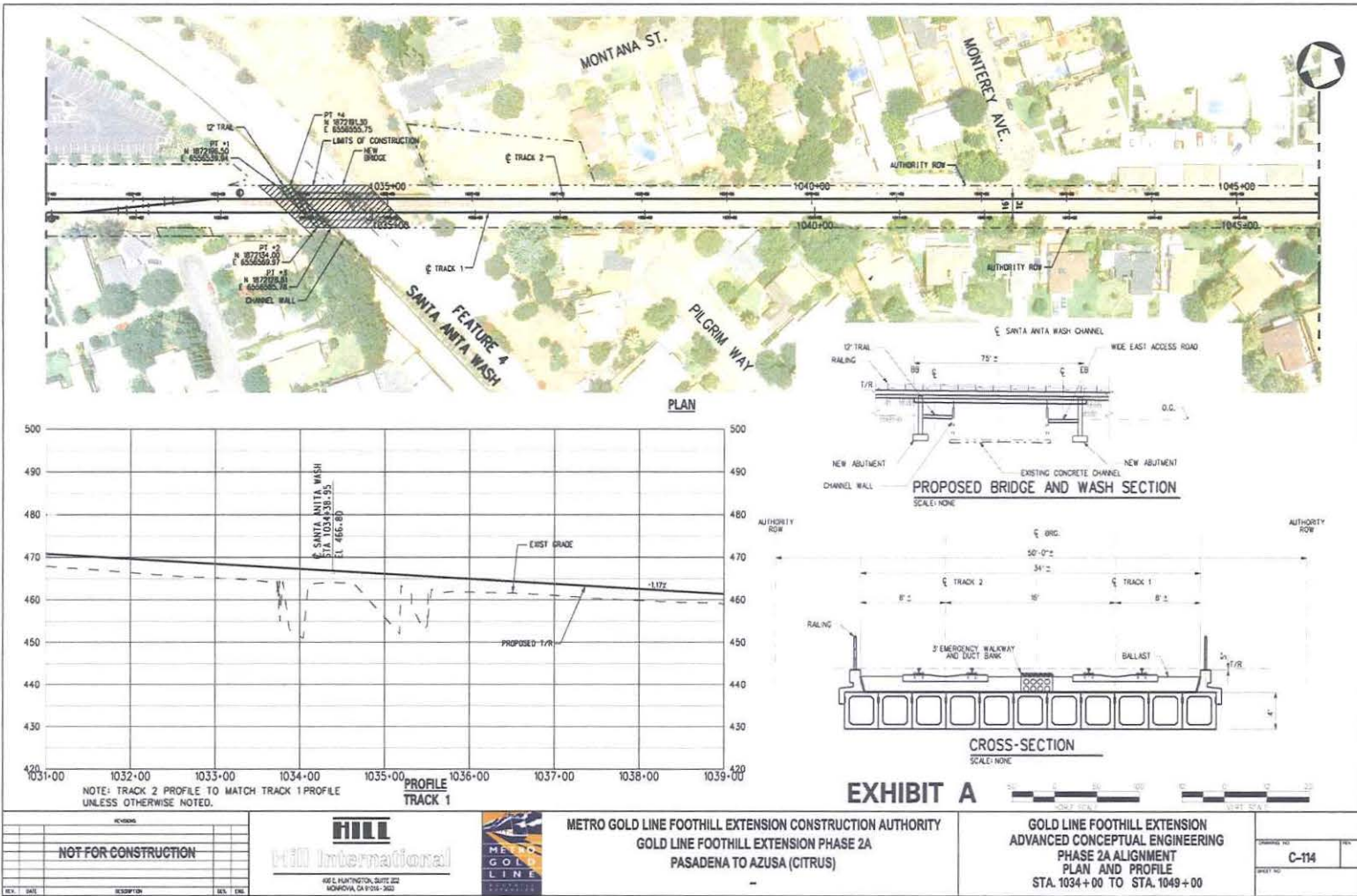


EXHIBIT B
LIST OF DISTRICT EASEMENTS

An easement for the purpose shown below and rights incidental thereto as set forth in a document

Granted to: Los Angeles County Flood Control District, a body politic and corporate
Purpose: Flood control purposes
Recorded: In Book 17690, Page 352, Official Records
Affects: As described therein

An easement for the purpose shown below and rights incidental thereto as set forth in a document

Granted to: Los Angeles County Flood Control District, a body politic and corporate
Purpose: Flood control purposes
Recorded: In Book 17730, Page 189, Official Records
Affects: As described therein

An easement affecting the portion of said land and for the purposes stated herein, and incidental purposes, condemned by final decree.

Purpose: Flood control purposes
Case No.: 452538
Recorded: In Book 19161, Page 110, Official Records
Affects: As described therein